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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/869,550	01/08/2002	Jan Trebesius	9771-190US	4686
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DeMont & Breyer, LLC 100 Commons Way, Ste. 250 Holmdel, NJ 07733			EXAMINER THEIN, MARIA TERESA T	
			ART UNIT 3627	PAPER NUMBER
			NOTIFICATION DATE 12/27/2010	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

international@dblaw.com

Office Action Summary

Application No.

09/869,550

Applicant(s)

TREBESIOUS, JAN

Examiner

MARISSA THEIN

Art Unit

3627

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 October 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-7,10-13 and 15-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-7,10-13 and 15-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

Applicant's "Amendments" filed on October 4, 2010 and February 12, 2010 have been considered.

Applicant's remark by virtue of amendment to claim 11 has overcome the Examiner's Election/Restriction Rejection which will be withdrawn.

Claims 1, 7, 10-13, and 15 are amended. New claims 29-32 are added. Claims 1, 3-7, 10-13, and 15-32 remain pending in this application and an action on the merits follow.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-7, 10-13, 15-29 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,991,739 to Cupps et al. in view of U.S. Patent No. 6,700,674 to Otsuka et al.

Regarding claim 1, 5, 7, 11, 15, 17-21, and 24-27, Cupps discloses an online ordering system, method for food outlets, comprising:

- at least a first computer system which is accessible via the Internet under at least one domain, in which data on food outlets are stored on which a program runs (col. 2, lines 39-50);

- in each case a communication connection which can be established at least temporarily between the computer system and at least a large number of all the food outlets covered (Figure 1; col. 3, lines 49-55);
- connects an output device and/or display device at the food outlets to the first computer system (Figure 1; col. 3, lines 49-55)
- wherein said system is adapted to display various categories of food, wherein said system is adapted to receive (Figures 9-11; col. 10, lines 7-16);
- a user input of a specific category of the categories of food displayed (Figures 9-11; col. 10, lines 7-16);
- wherein said system is adapted to respond to the user input on the basis of the stored data on the food outlets and to display the food outlets which offer the category of food selected (Figures 9-11; col. 10, lines 7-16);
- display of a start page (Figure 8);
- user input of a geographical specification into a device of said system (Figure 11; col. 6, lines 19-27);
- response of said system to the user input on the basis of data on food outlets being related to said system, which data being stored by said system, and display of the food outlets, preferably within the specified geographical area (Figure 11; col. 6, lines 19-27);
- user input into said device in such a way that one of the displayed food outlets is selected (Figures 9-11; col. 10, lines 7-16)

- response of said system to the user input on the basis of the stored data on the food outlets and display of the items of food offered by the food outlet selected (Figures 9-11);
- user input in such a way that one of the displayed items of food is selected or a table reservation is made (col. 5, lines 37-44; Figures 9-10); and
- display of price categories of the food outlet (col. 5, lines 45-47); and
- wherein the ordering system is adapted to display a start page to the user depending on a chosen accessible address of the at least one domain of the computer system, which start page being designed appropriately for a target group or specifically for a target group (col. 2, lines 24-29; col. 2, lines 51-61; col. 8, lines 43-55).

However, Cupps does not explicitly disclose generating an email whereby a fax is generated from said e-mail by said system or a connected system or a connected fax server; the fax machine; the transmission of said fax to said fax machine; the system sends a message to the food outlet with the suggestion to check the fax machine if there are problems in the transmission of the order to the food outlet; e-mail, fax message to another fax machine; and notified on an unsuccessful attempt to fax the order. Cupps discloses a system and method for providing an online offering machine that manages the distribution of home delivered products over a distributed computer system (abstract). Cupps discloses a distributed computer system includes a group of customers connected to client computers and at least one server computer system that executes the online ordering machine. The online ordering machine provides the

customers with product information from various vendors whose delivery range is within the customer's location or with product information from vendors having take out service within a specified range from the customer's location. The online ordering machine accepts orders from the customer for a particular product from a selected vendor. The order is converted into voice instructions which are transmitted to the vendor through a telephone call. Alternatively, the order can be transmitted via facsimile transmission with follow up voice instructions transmitted via a telephone call seeking a response. (Col. 2, lines 22-35)

Otsuka, on the other hand, teaches generating an email whereby a fax is generated from said e-mail by said system or a connected system or a connected fax server; the fax machine; the transmission of said fax to said fax machine; the system sends a message to the food outlet with the suggestion to check the fax machine if there are problems in the transmission of the order to the food outlet; e-mail, fax message to another fax machine; and notified on an unsuccessful attempt to fax the order (col. 1, lines 62-col. 2, line 12; col. 12, lines 22-39; Figure 1; col. 10, lines 16-17; Figures 9a-9b; col. 18, lines 4-33).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the system and method of Cupps, to generating an email whereby a fax is generated from said e-mail by said system or a connected system or a connected fax server; the fax machine; the transmission of said fax to said fax machine; the system sends a message to the food outlet with the suggestion to check the fax machine if there are problems in the transmission of the

order to the food outlet; e-mail, fax message to another fax machine; and notified on an unsuccessful attempt to fax the order, as taught by Otsuka, in order to improve the rate of arrival of the information at the addressee (Otsuka, col. 4, lines 66-67).

Regarding claims 3-4, 6, 10, 12-13, 16, 22-23, 28-29, and 31, and , Cupps discloses an interactive program runs on the first computer system; a second computer system, which is connected to the Internet, can communicate with the first computer system; the program comprises at least one prompted user program and one unprompted user program; transmitting a message to the orderer on the success/failure of passing the order to the food outlet; user input delivery time and storage of the same by the system; user input of delivery address; and electronic voice phone message; and wherein said system is adapted to display various categories of food, wherein said system is adapted to receive a user input of a specific category of the categories of food displayed, and wherein said system is adapted to respond to the user input on the basis of the stored data on the food outlets and to display the food outlets which offer the category of food selected (col. 3, line 49-col. 4, line 12; col. 5, lines 9-13; col. 5, lines 18-20; col. 9, lines 53-62; Figure 12C).

Claims 30 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,991,739 to Cupps et al. and U.S. Patent No. 6,700,674 to Otsuka et al., as applied to claims 1 and 7 above, and further in view of U.S. Patent No. 5,127,047 to Bell et al.

The combination of Cupps and Otsuka substantially discloses the claimed invention, however, the combination does not disclose sends a message with the

suggestion to check said fax machine if there are problems in the transmission of the order to the food outlet.

Bell, on the other hand, teaches sends a message with the suggestion to check said fax machine if there are problems in the transmission of the order to the food outlet (abstract).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination, to include sends a message with the suggestion to check said fax machine if there are problems in the transmission of the order to the food outlet, as taught by Bell, in order to distinguish between erroneous or correctly received facsimiles messages (Bell, col. 1, lines 29-31).

Response to Arguments

Applicant's arguments filed October 4, 2010 and February 12, 2010 have been fully considered but they are not persuasive.

Applicant remarks that "Camaisa and Cupps do not disclose a provision of a start page designed for a particular target group".

Examiner notes that the references used for the rejection are Cupps and Otsuka. However, Examiner does not agree. Cupps discloses an online ordering machine which provides the customers with product information from various vendors whose delivery range is within the customer's location or with product information from vendors having take out service within a specified range from the customer's location (col. 2, lines 24-29). The online ordering machine categorizes the location of each participating restaurant by a set of longitude and latitude coordinates. Each customer's delivery

location is also categorized by a set of longitude and latitude coordinates. The online ordering machine searches for those restaurants whose delivery area lies within the customer's location based on the restaurant's and customer's longitude and latitude coordinates. Likewise, the online ordering machine searches for those restaurants having takeout service within the customer's location based on the restaurant's and customer's longitude and latitude coordinates. (Col. 2, lines 51-61)

Such online ordering machine which provides the customers with product information from various vendors whose delivery range is within the customer's location or with product information from vendors having take out service within a specified range from the customer's location; online ordering machine which searches for those restaurants whose delivery area lies within the customer's location based on the restaurant's and customer's longitude and latitude coordinates; and online ordering machine which searches for those restaurants having takeout service within the customer's location based on the restaurant's and customer's longitude and latitude coordinates are considered the provision of a start page designed for a particular target group.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARISSA THEIN whose telephone number is (571)272-6764. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Marissa Thein/
Primary Examiner, Art Unit 3627
December 20, 2010